

REMARKS

In the Office Action, the Examiner rejected claims 1, 3-20, 22-31, 34-51, 56-74 and 76 under 35 USC 102(b). This rejection is fully traversed below.

Claims 1, 3-20, 22-31, 34-51, 56-74 and 76 are pending in the application. Claims 16, 17 and 48 have been amended to correct minor informalities. Reconsideration of the application is respectfully requested based on the following remarks.

Claim Rejections – 35 USC 102

Claims 1, 3-20, 22-31, 34-51, 56-74 and 76 have been rejected under 35 U.S.C. 102(b) as being anticipated by *Dowling* (WO 02/10847). Applicants respectfully disagree.

The International Publication Date of *Dowling* (WO 02/10847) is February 7, 2002, and the International Filing Date of *Dowling* (WO 02/10847) is July 26, 2001. On the other hand, the present application was filed February 13, 2002. However, since 35 U.S.C. 102(b) requires more than one year before the effective filing date, *Dowling* (WO 02/10847) cannot be prior art to the present application under 35 U.S.C. 102(b).

While the Examiner rejection was distinctly based on 35 U.S.C. 102(b), for convenience of the Examiner, a discussion of the potential use of *Dowling* (WO 02/10847) in the context of 35 U.S.C. 102(a) and 35 U.S.C. 102(e) is provided below.

While February 7, 2002 is prior to February 13, 2002, the present application claims priority to two provisional patent applications, particularly, U.S. Provisional Application No. 60/298,364 filed June 15, 2001 and U.S. Provisional Application No. 60/315,571 filed August 28, 2001. The provisional patent applications are believed to fully support the present application and their dates are prior to the International Filing Date of February 7, 2002. Therefore, *Dowling* (WO 02/10847) can also not be prior art to the present application under 35 U.S.C. 102(a).

Furthermore, with respect to 35 U.S.C. 102(e), an International Application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the International Application designated the United States and was published under Article 21(2) of such treaty in the English language. It appears on the face of *Dowling* (WO 02/10847) that the United States was not so designated (see

Designated States of front page). Consequently, Dowling (WO 02/10847) can also not be prior art to the present application under 35 U.S.C. 102(e).

Based on the foregoing, it is submitted that Dowling (WO 02/10847) is not prior art. Therefore, the rejection under 35 USC 102(b) is moot and warrants no further discussion and thus should be withdrawn.

Reconsideration of the application and an early Notice of Allowance are earnestly solicited. If there are any issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below.

Applicant hereby petitions for an extension of time which may be required to maintain the pendency of this case, and any required fee for such extension or any further fee required in connection with the filing of this Amendment is to be charged to Deposit Account No. 50-0388.

Respectfully submitted,

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